

APPROVED: Meeting No. 41-82

ATTEST:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 38-82

October 18, 1982

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, on Monday, October 18, 1982, at 8:00 p.m.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Clerk Helen Heneghan; Acting City Manager Daniel Hobbs; and City Attorney Paul Glasgow.

Re: City Manager's Report

Mr. Hobbs reported the following:

1. The staff looked at the rear lights that are reflecting into Hardy Place from the Wintergreen Shopping Center. Contact has been made with the owner, Mr. Sokolsky and light covers have been ordered. They will be in place in about 60 days.

2. The violations at the College Gardens Shopping Center have been inspected and a notice sent to the owner concerning the grass cutting, trash and debris in the parking lot. The large pothole near the vacant A&P store has been repaired. The owners were asked to clean up the dumpster area.

3. The Antique and Classic Car Show was held on Saturday. There were 400 entries for the event and it was estimated that 3,000 spectators reviewed the event.

4. Based on the most recent discussions with F.O. Day Construction Superintendent, the originally scheduled completion date for Gude Drive has been delayed due to gabion work. It is now projected that the work will be completed October 22 and following the traffic signs and markings being put in place, opening should be during the week of October 25.

5. A building permit has been issued to Danac for a 51,000 square foot building on Gaither Road at a cost of \$1.4 million.

6. On Sunday, the 10 kilometer run was held with 560 runners participating. Four teams ran and the team of City employees, Ron Olson, James Keene and Bob Gronski took second place.

Mayor Freeland noted that it was a tough day for the run. He commented on the fine dinner held in conjunction with the 13th Annual Rockville Golf Open last Saturday night. There was \$1,500 in prizes and trophies donated by Rockville businesses. There are Cub Scouts present this evening from Pack 483, Twinbrook Elementary School and also 1753 Webelows Den #4 from Fallsmead Elementary School. Councilman Abrams noted that the Scouts are studying the election process. The Scouts were welcomed. They presented Councilman Abrams a certificate, making him a honorary Webelow and the Mayor and Council presented the Scouts with flag pins.

Re: Appointments

Mayor Freeland made the following appointments. They were confirmed by the Council:

Board of Appeals: Patrick Woodward, alternate (3 year term)
111 North Van Buren Street

Cultural Arts Commission: Sharon Buchanan, reappointment (2 year term)
Mary Elizabeth Carroccio, member (2 year term)
708 Azalea Drive
Marcy Grace, member (2 year term)
1510 West Kersey Lane

Alternative Community Service Commission: Robert Puckett, member (2 year term)
F. Gregory McKenna, alternate (2 year term)
2004 Baltimore Road

Senior Citizens Commission: Jan Brown, reappointment (3 year term)

Traffic & Transportation Comm: Glennon J. Harrison, member (2 year term)
314 Grandin Avenue

Chairman: Senior Citizens Commission - Jan Brown
Recreation & Park Advisory Board - Charles Leasure, Jr.
Cultural Arts Commission - Ann Reiss
Humanities Commission - Cathy Landenburger
Economic Development Council - Robert Turner

Friends of the Arts Task Force: Patricia Smart, 9805 Sunset Drive
James Griffin, 1920 Sunrise Drive
Arnold Barnett, 19 Orchard Way South
Mary Horsman, 306 Twinbrook Parkway
Eileen Mader, 2320 Pinneberg Avenue
Sondra Taggart, 703 College Parkway

Re: Citizen's Forum

Mayor Freeland opened the meeting to those citizens who wished to address the Mayor and Council:

1. Stewart Stahler, 183 Hardy Place and Paul Seckler, 186 Hardy Place. Mr. Stahler and Mr. Seckler thanked the Mayor and Council and staff for their help in the problem with Wintergreen. They said although they spoke to the management on several occasions, they could not get any assistance until the City intervened. Garbage collection is still a problem and they are violating the noise ordinance by collecting too early. They asked that the police come out and write a report when collection is made too early. If copies of the report are sent to the correct agency, the trash company can have their license revoked. They again asked about the landscaping and what happened to it. There was 7,500 square feet that should have been placed there. In addition, the other landscaping should have been put in place in the summer. They were told it would be done in the fall and the freeze is coming now and it still has not been planted. Mr. Hobbs said a letter was sent to Montgomery County on October 13 about the noise problem. The Mayor asked that the staff check into the landscaping.

2. Ben Gitnick, President, West End Citizens Association, 151 South Adams. Mr. Gitnick thanked the Mayor and Council for their attendance at the October 7 meeting. He mentioned a drive through the West End with Councilman Duncan on Saturday afternoon that was most beneficial. He extended an invitation to the rest of the Council for this tour.

3. Glenn Looper, 106 Wall Street. Mr. Looper commended the City on the job at the Classic and Antique Car Show. He drew attention to the agenda item tonight on consumer protection legislation concerning towing and auto repair. He noted that 30 percent of the complaints that come into the County come in from the City of Rockville. He added that the County works to explain the law to the merchants and the method of compliance and suggested that the City do the same. He introduced Mr. George Rose and Frank Josey from Montgomery County who would be present this evening to answer questions.

4. Howard Silberstein, 2008 Dundee Road. Mr. Silberstein commended Mr. Tyner on his excellent report on the conditions at the David Scull apartments and the public housing area. It pleased him that the Council report was done

and reaffirmed the Human Rights Commission's earlier report. However, the report being done shows the lack of trust in a commission duly appointed by the Mayor and Council, if the Mayor and Council felt the report was necessary. He suggested the Mayor and Council develop a proposal for an "oversight committee" to resolve conflicts between parties whether it be the Mayor and Council and a commission, or a commission and a citizen, or commissions between themselves. Mr. Silberstein read the description and duties of the Rockville Housing Authority to the Mayor and Council and suggested after the work session the City look at the Authority itself and see if it has been remiss on the subject of housing in general. He added that the document produced by Councilman Tyner is not goal oriented. It points out the problems but not the ideals. He suggested it should say that every citizen is entitled to housing and should be provided with the means to get there. It should include goals and strategies. There also should be a housing policy for the City.

5. John Brewer, 100 N. Van Buren Street. Mr. Brewer told the Council he is concerned with the Parking Management Steering Committee. Since it is out of balance as presently formulated it leaves out a number of groups that are vitally interested in the Town Center, such as Americana, Hungerford and also the Civic Federation should have representation. He added that Councilman Duncan spoke on combined County/City voter registration at the last West End meeting as a proponent. He said he sees separate City registration to be the best for Rockville since Rockville's employees are the most courteous, efficient and effective. Referring to the poll on the nuclear referendum, Mr. Brewer reiterated his previous remarks that the poll itself was an unfortunate decision of the Mayor and Council. The City provides adequate means for citizens to let their elected officials know their feelings. The Mayor and Council were elected to make decisions and the poll was an abdication of responsibility.

Councilman Abrams spoke in favor of the method employed and noted that an extraordinary issue sometimes calls for extraordinary means.

Mayor Freeland said his position in the past has been separate registration but now he is open to other opinions and remains flexible. Councilman Duncan spoke in defense of the County employees who operate the election office and said it is a most dedicated group of public servants. Mr. Brewer explained he meant no offense against the County employees. He was simply noting that a smaller group

of City employees is much better able to serve the people. Councilman Tyner said he has made no decision on combined registration but he plans to look at all sides. Councilwoman Hovsepian said it would take a lot of persuasion to convince her that a change in separate registration would be for the better. Councilman Abrams said he would like to see a combination of both.

There being no other citizen wishing to be heard, the Mayor declared the citizen's forum portion of the meeting closed.

Re: Resolution: To approve proposed agreement with Rockville Redevelopment Associates, Eisinger/Kilbane and the original partners of Rockville Redevelopment Associates, subject to certain conditions. (Mall Garage)

Resolution No. 28-82

Councilwoman Hovsepian read a letter that was submitted to the record by Mr. Stahel of Winmar/Nordal, developers of the Town Center property. She said she feels movement is needed in downtown Rockville and there is no guarantee that letting the Mall go to bankruptcy will give a better solution than the one proposed by the lease of the property to the Eisinger/Kilbane people. She said the New York State Teachers Retirement system has demonstrated they do not care what type of people come in. Some people have mentioned that the City might get a better deal if it waited, but there is no guarantee of this. She said this action gives the City some payments now, part of the rent, back taxes, etc., also, the Mall will be taken care of. She mentioned the easements that are very necessary for access to Metro and concluded by saying that she is in favor of going ahead with this agreement.

Councilman Abrams said he favors this. It has been a long time coming. He shares Mrs. Hovsepian's comments and he also commends the two new members of the Council for the tremendous amount of catch up that was necessary and the amount of homework they had to do to bring this about. He said the Mall could never be treated the same way as undeveloped land. This process has been a healthy one and the purpose of the process used was to lay out the alternatives and not have the City take a position and then have the citizens look at the alternatives with the Mayor and Council.

Councilman Tyner said he is absolutely opposed to this agreement. In his opinion, the New York State Teachers Retirement Pension System has mismanaged this Mall for 10 years and still does not care. He said this agreement brings about for silent partners, a firm that has managed it previously with no thought to the City of Rockville, a firm that has never showed the City they would deliver and also a firm that said it could go on regardless of the Mall. The City is faced with many unpalatable arrangements and to say that there is no way the City can wait is just not so. He said without the carrot of the garage, the Mall would not be touched. He cannot support it at all. He has more faith in the City of Rockville than to go with this. He asked the staff if this resolution guarantees that all Planning Commission and staff requirements will be followed with no waivers. Mr. Horne said there will be no waivers. Councilman Tyner suggested that all those things should be ironclad. The Mayor said the City has agreed to fast track anything when it is possible but no bypassing of requirements will be allowed.

Councilman Duncan said he favors the resolution. It would please him if there were several offers and the City could make a choice but the City is not afforded that luxury and must go with what it has. Councilwoman Hovsepian noted that if the Mall were allowed to go to bankruptcy she sees nothing positive in the future of our dealing with the Teacher's Retirement System. Mayor Freeland said he shares the plus and minus comments made but he applauds the Council's efforts and the staff has been extremely helpful. He hopes the City is moving in a direction to change the Mall's image and he supports the Resolution. He said he is in no position to tell the Teacher's how to manage their money but the necessity is there for regular meetings with all the principals involved.

On motion of Councilman Abrams, duly seconded and passed, Mayor Freeland, Councilmembers Abrams, Duncan and Hovsepian voting aye and Councilman Tyner voting nay, Resolution No. 28-82, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council approving the agreement with Rockville Redevelopment Associates, Eisinger/Kilbane and Associates was adopted by the Mayor and Council.

Re: Work Session with Rockville
Housing Authority and Human
Rights Commission on Policies
and Procedures of Rockville
Housing Authority

Mayor Freeland read a letter from the Rockville Housing Authority Chairman, Bernie Jones, requesting a two week delay before the work session. The Mayor and Council agreed to this. The work session will be held on November 1.

Re: Discussion: Consumer
Protection Laws pertaining
to auto repair and towing

Present this evening is Mr. George Rose and Mr. Frank Josey from Montgomery County's Consumer Protection Office. Councilman Duncan commended the staff on the completeness of the job done. The Council discussed the report and the various alternatives outlined. After discussion, the Council agreed, of the options outlined by the staff, Option No. 1, which is to adopt the County's motor vehicle repair and towing registration law, would serve Rockville the best. According to the laws of Montgomery County, the Motor Vehicle Repair and Towing Registration Law would apply within the corporate limits of Rockville, provided the City adopts all of the stipulations of the Chapter. The Montgomery County Office of Consumer Affairs would enforce it free of charge. Adopting this law would mean better protection for the consumer in Rockville without increasing the City's staff work load.

On motion of Councilman Duncan, duly seconded and unanimously passed, the staff was instructed to prepare the necessary legal documentation to adopt the County's motor vehicle law.

Re: Receipt of results of
referendum on nuclear
disarmament

Resolution No. 29-82

The Mayor and Council received the results of the survey on the resolution to seek a mutual and balanced approach to nuclear arms reduction, yes - 3,974, no - 943, and no opinion - 88.

On motion of Councilwoman Hovsepian, duly seconded and unanimously passed, Resolution No. 29-82, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, seeking a mutual and balanced approach to nuclear arms reduction, was adopted by the Mayor and Council.

Re: Introduction of Ordinance:
To levy assessments for water and sewer main and laterals in Fallsbend subdivision, Hungerford subdivision and Montrose subdivision

On motion of Councilman Tyner, there was introduced upon the table an ordinance levying assessments for water and sewer main and laterals in the Fallsbend, Hungerford and Montrose subdivisions, said ordinance to lay over one week before final action is taken.

Re: Introduction of Ordinance:
To levy assessments - Drive-way aprons, various locations, Project #010612

On motion of Councilman Duncan, there was introduced upon the table an ordinance levying assessments at various locations, said ordinance to lay over one week before final action is taken.

Re: Introduction of Ordinance:
To levy assessments for concrete sidewalks and driveway aprons on Cabin John Parkway, north side from Monroe Street to West Lynfield Drive, Project #080228

On motion of Councilman Tyner, there was introduced upon the table an ordinance levying assessments for concrete sidewalks and driveway aprons on Cabin John Parkway, north side, from Monroe Street to Lynfield Drive, said ordinance to lay over one week before final action is taken.

Re: Introduction of Ordinance:
To grant Street Closing Application, SCA-41-82, C.M. Whalen, Applicant, service drive, Rockville Pike.

On motion of Councilman Duncan, there was introduced upon the table an ordinance granting Streeting Closing Application SCA-41-82, C.M. Whalen, Applicant, said ordinance to lay over one week before final action is taken.

Re: Adoption of Resolution;
To approve exploratory applica-
tion for Residential Townhouse
development, RTH-3-82, Rockmont
Associates, Applicant

Resolution No. 30-82

(At this time Councilman Abrams left the meeting.)

Councilman Tyner said previously the Planning Commission had comments on this resolution and asked why they were not included. The City Attorney explained the preliminary nature of this resolution. Since it is an exploratory application, it now goes to the Planning Commission for the insertion of the details.

On motion of Councilman Duncan, duly seconded and passed by unanimous vote of all present, Resolution No. 30-82, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, approving exploratory application RTH-3-82, was approved by the Mayor and Council.

(At this time Councilman Abrams returned to the meeting.)

Re: Authorization for Mayor to
Sign Memorandum of Understanding
to renew the cooperative agree-
ment between Montgomery County
and Rockville Police Departments.

The agreement under which City and Montgomery County Police conduct operations within Rockville expired in late July, two years from the time it was signed by Mayor Hanna and County Executive Charles W. Gilchrist. It remains in force by agreement between Chief Stout of the City Police and Chief Crooke of the County Police.

Until signed again, the two Chiefs are well satisfied with its provisions, which are virtually unchanged from the initial agreement. The agreement has been reviewed by the City and County Attorneys' Offices and is ready for execution.

It is recommended that renewal of the agreement be approved. After approval, arrangements will be made for the Mayor and County Executive to sign the document.

On motion of Councilman Tyner, duly seconded and unanimously passed, the Mayor was authorized to sign the agreement. Mayor Freeland noted the prior agreement has done a lot of good for the City and he hopes this will continue.

Re: Preliminary Review and Referral of Text Amendment, T-54-82, W. Eisinger. Applicant

Since this is a text amendment, the Mayor and Council review is mandatory prior to referral to the Planning Commission. It is possible at this stage for the Mayor and Council to dismiss the application. Since so little information is provided to the Council this evening, the Mayor requested that this be postponed until the November 1 meeting so that a complete staff report can accompany it before the Mayor and Council take action. The Council agreed to this.

Re: Award of Contract: Bid No. 16-83, Salt for Ice Control

Bids were opened at 2:00 p.m. September 15, 1982, in the Boards and Commission Room for providing bulk sodium chloride.

The bids received were as follows:

- 1. Cargill, Inc., White Marsh, Maryland \$28.08/ton
- 2. Morton Salt Co., Chicago, Illinois 29.00/ton
- 3. International Salt Company, Clark Summit, Pennsylvania 32.00/ton
- 4. Schoenberg Salt Company, Brooklyn, New York 40.00/ton

The low bid last year was from Cargill, Inc., for \$28.75/ton. The low bid this year from the same company is 2.4 percent lower than last year's. Staff estimate for salt needs in the FY 83 budget was for \$30/ton. (\$30,000)

The City uses approximately 1,000 tons average per year. (FY 81 was 662 tons and FY 82 was 1288 tons.)

The City's contract is so worded that the City takes 300 tons delivery on execution of the contract and then may take an additional 200 tons as requested until April 1, 1983. Vendors were asked if they would supply an additional 1,000 tons at the same price at the City's option during the winter season (September, 1982, through March, 1983), and the low bidder stated that this option was available to the City. The City's salt dome will accommodate 1,800 tons and the initial delivery of 300 tons will fill the dome to 94 percent of capacity.

\$28.08/ton is 3.6 percent lower than Montgomery County's low bid of \$29.13 submitted by Cargill, Inc.

Staff recommends that the contract be awarded to the low bidder, Cargill, Inc., at \$28.08 per ton including option if the City so desires.

On motion of Councilman Duncan, duly seconded and unanimously passed, Bid No. 16-83, was awarded to Cargill, Inc., in the amount of \$28.00/ton.

Re: Award of Contract: Bid No.
18-83, Storm Water Management
maintenance

A survey of storm water management ponds by the Public Works Department and the Parks Maintenance Division revealed a number of heavy maintenance items that should be performed this year to reduce future maintenance costs. Many of these items are beyond the equipment capability of City forces. The work identified in this survey included the following items which were the basis of this bid proposal: removal of 4 CY of concrete pilot channel and installation of 48 CY of gabions; removal and disposal of 855 CY of sediment and debris together with stabilization of related disturbed areas; furnishing and installing 800 LF of french drains together with nine (9) appurtenant animal guards per specifications and details; constructing 100 square yards 6" deep concrete pilot channel, a reinforced stone faced wall per details, and miscellaneous sodding and sealing.

The work is to be done at 5 storm water management pond sites; Aintree Drive; Horizon Hill; Lock Pond Court; Northeast Park; Mount Vernon Park.

Following wide advertisement to 61 companies, six bidders requested specifications, and of this number four responded with bids as follows:

Davis Nurseries, Harrisburg, Pennsylvania	\$40,627.00
DeMeglio Construction, Hyattsville, Maryland	52,158.00
Concrete General, Gaithersburg, Maryland	73,400.00
T.J. Company, Inc., Silver Spring, Maryland	73,752.00
Engineer's Estimate	\$42,700.00

This is the second request for bids sent out by the City for this project. It was originally included as an optional item in the City's annual street maintenance contract. At that time, only one bid was received for \$64,100 and it was rejected by the Mayor and Council on August 16, 1982 because of excessive cost.

Because the work should be done this year and the low bid is under the engineer's estimate for the project, staff recommends that:

1. The Mayor and Council approve at midyear a supplemental appropriation of \$40,627 to the General Fund from Storm Water Management revenues to fund this contract, with the appropriation ordinance to be amended at midyear; and

2. The Mayor and Council award the contract to the low bidder, Davis Nurseries, in the amount of the bid, \$40,627.

Councilman Tyner asked if there is enough in the fund at this time, and if there is, Councilman Tyner suggested that the word "approved" be changed to "consider" in the recommendation. The Council agreed to this change.

On motion of Councilman Tyner, duly seconded and unanimously passed, Bid No. 18-83 was awarded to Davis Nurseries, in the amount of \$40,627.00 and the staff will consider a supplemental appropriation at mid-year to the general fund with the appropriation ordinance to be amended.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. County Executive Gilchrist, re Ride-On service
2. College Gardens Civic Association, re conditions at shopping center
3. Dr. Katz, re Falls Road interchange
4. Bethany House Senior Clubs, re bus purchase
Senior Citizens Commission, re bus purchase

Councilwoman Hovsepian asked the status. Mr. Hobbs said he would get a report back to the Council.

5. Lynne Windsor, re rental problems

Councilman Duncan asked if the City had taken action on this. Mr. Hobbs said yes, Mr. Radauskas was looking into this now.

6. J.H. Burton, complimenting City employees

Councilman Tyner read this letter since it is so complimentary

7. Rockville Housing Authority, re postponement of work session

Councilman Tyner noted that this was covered under agenda item no. 5

8. Virginia Keech, re protest of water, sewer and refuse bill

Councilwoman Hovsepian asked if there is any mechanism to handle this. Mayor Freeland suggested the emergency fund could handle someone's needs. Mr. Hobbs said the letter did not show need, just disagreement with the City's policy. Councilwoman Hovsepian suggested this person be made aware of the fact that she can make a compost pile.

Re: Information Items

1. Memo from City Attorney re W. Lawson King v. Mayor and Council of Rockville
2. Public Works Department Project Status

4. Task Force report on Drinking and Driving from Chief of Police
Councilwoman Hovsepian noted that this is a very good report.
5. City Manager report on Approaches to Delinquency
Councilwoman Hovsepian commended the staff and hoped it will be made available to the audience.
6. Recreation and Park Project status
7. ACSC Activities Report
8. Report on speeding complaints
9. Memo from CDHA re Noise Control Ordinance amendments
10. Article in Wall Street Journal on City aid to developers
11. Police Activities - January-June, 1982
12. Report from CDHA on Twinbrook Shopping Center
Councilwoman Hovsepian read excerpts from this for the benefit of those that have not seen it.
13. Copy of letter to Governor from citizen commending Rockville Volunteer Fire Department
14. Copy of letter to City Manager from Board of Appeals re ordinance changes
Re: New Business

1. Councilman Duncan said he held the first Saturday morning session and had no visitors but he understood that the Mayor had several. The Mayor said he had four different sets of visitors and all liked the idea. He suggested the staff provide signs for access to make it easier for the citizens.

2. Councilwoman Hovsepian suggested the Mayor and Council meet for its goals and objectives session on November 4 at 7:00 p.m. The Council agreed to this.

3. Mayor Freeland presented a plate to the City for the Pinneberg Room as a gift from the City of Pinneberg. He asked that the Pinneberg flag be flown when the students visit the City. He explained the details of his visit and he is anxious to promote closer relations and interaction between the two cities. He suggested that Rockville act as a facilitator and the citizens get together and a task force be set up to look at the possibilities of building the relationship. He has already asked former Mayor Hovsepian to work on this and if possible other former Mayors might be interested as well as City groups and former Chamber presidents. Councilwoman Hovsepian said that it is most valid to pursue it from an educational stand point. The Council agreed to this proposal.

Meeting No. 38-82

-14-

October 18, 1982

Re: Approval of Minutes

On motion of Councilman Abrams, the Minutes of Meeting No. 36-82, were approved as written.

Re: Executive Session

On motion of Councilman Abrams, duly seconded and unanimously passed, the meeting was closed for executive session to discuss litigation.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 11:10 p.m. to convene again in general session on Monday, October 25, 1982, at 8:00 p.m. or at the call of the Mayor.